

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

BRIAN KOLFAGE,
ANDREW BADOLATO, and
TIMOTHY SHEA

UNITED STATES OF AMERICA

v.

BRIAN KOLFAGE

Consent Order of Restitution

Docket No. 20 Cr. 412 (AT)

Docket No. 22 Cr. 201 (AT)

Upon the application of the United States of America, by its attorney, Damian Williams, United States Attorney for the Southern District of New York, Mollie Bracewell, Nicolas Roos, Robert Sobelman, and Derek Wikstrom, Assistant United States Attorneys, of counsel; the presentence investigation reports; the defendants' convictions in these cases; and all other proceedings in these cases, it is hereby ORDERED that:

1. Amount of Restitution

Brian Kolfage, Andrew Badolato, and Timothy Shea, the defendants, shall pay restitution in the total amount of \$25,601,615.00, pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664, to the victims of the offenses charged in Count One of Indictment 20 Cr. 412 (AT) and Count One of Superseding Indictment S2 20 Cr. 412 (AT), as apportioned below. The names, addresses, and specific amounts owed to each victim are set forth in the Schedule of Victims, attached hereto as Schedule A.

Brian Kolfage, the defendant, shall also pay restitution in the amount of \$143,003.00, pursuant to 18 U.S.C. §§ 3663, 3663A, and 3664, to the victim of the offense charged in Counts One, Two, and Three of Indictment 22 Cr. 201 (AT)

Upon advice by the United States Attorney's Office of a change of address of a victim, the Clerk of Court is authorized to send payments to the new address without further order of this Court.

A. Joint and Several Liability

Restitution to the victims of the offense charged in Count One of Indictment 20 Cr. 412 (AT) and Count One of Superseding Indictment S2 20 Cr. 412 (AT) is joint and several between Brian Kolfage, Andrew Badolato, and Timothy Shea.

Pursuant to 18 U.S.C. § 3664(h), the Court has apportioned liability among the defendants to reflect the level of contribution to the victim's loss and the economic circumstances of each defendant:

Defendant	Apportioned Liability
Brian Kolfage	\$2,877,414.
Andrew Badolato	\$1,414,368
Timothy Shea	\$1,801,707

Restitution to the victim of the offense charged in Counts One, Two, and Three of Indictment 22 Cr. 201 (AT), which is to be paid only by Brian Kolfage, is not joint and several with other defendants or with others not named herein.

B. Apportionment Among Victims

Pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid. Restitution shall be paid to the victims identified in the Schedule of Victims, attached hereto as Schedule A, on a pro rata basis, whereby each payment shall be distributed proportionally to each victim based upon the amount of loss for each victim, as set forth more fully in Schedule A.

2. Schedule of Payments

Pursuant to 18 U.S.C. § 3664(f)(2), in consideration of the financial resources and other assets of the defendants, including whether any of these assets are jointly controlled; projected earnings and other income of the defendants; and any financial obligations of the defendants; including obligations to dependents, the defendants shall pay restitution in the manner and according to the schedule that follows:

In the interest of justice, restitution will be payable in installments pursuant to 18 U.S.C. § 3572(d)(1) and (2). While serving the term of imprisonment, the defendants shall make installment payments toward restitution and may do so through the Bureau of Prisons' (BOP) Inmate Financial Responsibility Plan (IFRP). Any unpaid amount remaining upon release from prison will be paid in installments of at least 15% percent of the defendant's gross income on the first of each month.

This schedule is without prejudice to the Government taking enforcement actions, pursuant to 18 U.S.C. § 3613, to the extent warranted.

3. Payment Instructions

The defendants shall make restitution payments by certified check, money order, or online. Instructions for online criminal debt payments are available on the Clerk of Court's website at <https://nysd.uscourts.gov/payment-information#PaymentofCriminalDebt>. Checks and money orders shall be made payable to the "SDNY Clerk of Court" and mailed or delivered to: United States Courthouse, 500 Pearl Street, New York, New York 10007 - Attention: Cashier, as required by 18 U.S.C. § 3611. The defendants shall write their name and the docket number of this case on each check or money order.

Because the Internal Revenue Service ("IRS") is a victim of Counts One, Two, and Three of Indictment 22 Cr. 201 (AT), the Clerk's Office shall forward payments by Brian Kolfage, the

defendant, toward his obligation to pay \$143,003.00 in restitution to the IRS to the below address within 30 days of receiving said payments:

IRS - RACS
Attn: Mail Stop 6261, Restitution
333 W. Pershing Ave.
Kansas City, MO 64108]

4. Change in Circumstances

The defendants shall notify, within 30 days, the Clerk of Court, the United States Probation Office (during any period of probation or supervised release), and the United States Attorney's Office, 86 Chambers Street, 3rd Floor, New York, New York 10007 (Attn: Financial Litigation Program) of (1) any change of the defendant's name, residence, or mailing address or (2) any material change in the defendant's financial resources that affects the defendant's ability to pay restitution in accordance with 18 U.S.C. § 3664(k).

5. Term of Liability

The defendants' liability to pay restitution shall terminate on the date that is the later of 20 years from the entry of judgment or 20 years after that defendant's release from imprisonment, as provided in 18 U.S.C. § 3613(b). Subject to the time limitations in the preceding sentence, in the event of the death of a defendant, that defendant's estate will be held responsible for any unpaid balance of the restitution amount, and any lien filed pursuant to 18 U.S.C. § 3613(c) shall continue until the estate receives a written release of that liability.

6. Sealing

Consistent with 18 U.S.C. §§3771(a)(8) & 3664(d)(4) and Federal Rule of Criminal Procedure 49.1, to protect the privacy interests of victim(s), the Schedule of Victims, attached hereto as Schedule A, shall be filed under seal, except that copies may be retained and used by or

disclosed to the listed victims, the Government, the investigating agency, the Clerk's Office, and the Probation Office, as needed to effect and enforce this Order, without further order of this Court.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By: /s/ Robert Sobelman
Mollie Bracewell
Nicolas Roos
Robert Sobelman
Derek Wikstrom
Assistant United States Attorneys
BRIAN KOLFAGE

4/17/2023
DATE

By: /s/ Brian Kolfage
Brian Kolfage

4/17/2023
DATE

By: /s/ Cesar de Castro
César de Castro, Esq.
David DeStefano, Esq.
Attorneys for Brian Kolfage

4/17/2023
DATE

ANDREW BADOLATO

By: /s/ Andrew Badolato
Andrew Badolato

4/14/2023
DATE

By: /s/ Kelly B. Kramer
Kelly B. Kramer, Esq.
Attorney for Andrew Badolato

4/14/2023
DATE

TIMOTHY SHEA

By: /s/ Timothy Shea
Timothy Shea

4/15/2023
DATE

By: /s/ Thomas Nooter
Thomas Nooter, Esq.
Attorney for Timothy Shea

4/15/2023
DATE

SO ORDERED:


HONORABLE ANALISA TORRES
UNITED STATES DISTRICT JUDGE

April 26, 2023
DATE
New York, New York

Schedule A

(Schedule of Victims)